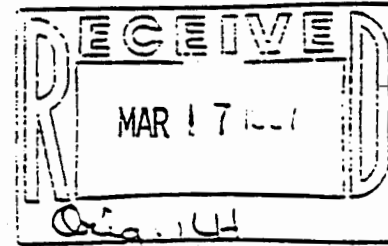


DEPARTMENT OF FOOD AND AGRICULTURE

1220 N Street, Room 409
Sacramento, California 95814
(916) 654-0443

March 11, 1997

Daniel G. Pennington, Chairman
Robert Frazee, Vice Chairman
California Integrated Waste Management Board
8800 Cal Center Drive
Sacramento, California 95826



Dear Chairman Pennington and Vice Chairman Frazee:

This letter is intended as a follow up and update to CDFA's letter dated February 20, 1997. As you are aware, we undertook to look at three areas identified by our mutual staffs: potential regulatory overlap, concerns regarding health and safety, and any gaps existing with the science.

Ash:

Potential regulatory overlap: It is CDFA's role to define a "beneficial agricultural use." CDFA already regulates ash in the form of wood fly ash as a fertilizing material (Food and Agricultural Code Section 14512). Absent further regulatory or statutory development, no other activities or materials would be considered beneficial uses for agriculture. Where its proposed use is as a herbicide, these uses should be cleared with the Department of Pesticide Regulation.

Concerns regarding health and safety. CDFA has and, as an on-going process, will continue to review exposure effects to workers, animals, and consumers. Since, this material will be used as a fertilizing material (Food and Agricultural Code Section 14533) it will be subjected to the on-going risk assessment which is being conducted for heavy metals as identified by Proposition 65. In addition, it must meet minimum labeling requirements as identified in Title 3, California Code of Regulations, Sections 2300 through 2326. Likewise, it may not exceed limits defined in those sections for prescribed constituents.

Gaps existing in the science. CDFA believes this can be addressed through the process in place for traditional fertilizing materials.

General Regulatory Framework:

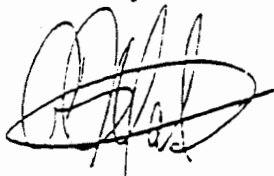
The Food and Agricultural Code contains intent language which provides for: promoting the distribution of effective and safe fertilizing materials essential for the production of food and fiber, providing for assurance to the consumer of commercial fertilizers, agricultural minerals, packaged soil amendments, and auxiliary soil and plant substances that the product purchased is properly identified, and providing assurance of the validity of the quality and quantity represented by the manufacturer of these products.

Daniel G. Pennington, Chairman
Robert Frazee, Vice Chairman
March 11, 1997
Page Two

CDFA has been enforcing this Code section since its inception. Therefore, as a generic framework for future materials, CDFA believes that when a recycled material is being proposed for use in agriculture, the existing Food and Agriculture Codes and regulations be used as the determinant for beneficial agricultural use. If the manufacturers of the recycled materials want to expand uses into agriculture beyond what currently exists in statute, they may address their issues with CDFA. This should preclude problems of regulatory overlap and allow for the appropriate regulation of agricultural activities by CDFA.

We look forward to the continued joint efforts by our respective Departments. Again, I would like to commend the efforts of Elliot Block and Ralph Chandler of your staff. Please don't hesitate to call upon us if our input would be helpful to your deliberations.

Sincerely,

A handwritten signature in dark ink, appearing to be 'A.J. Yates', written over a horizontal line.

A.J. Yates
Undersecretary

cc: Mr. Paul Relis, Board Member, CIWMB